



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2388

Introduced 2/19/2009, by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

320 ILCS 20/2
320 ILCS 20/3

from Ch. 23, par. 6602
from Ch. 23, par. 6603

Amends the Elder Abuse and Neglect Act. Provides that "self-neglect" includes compulsive hoarding, which is characterized by the acquisition of, and unwillingness or inability to discard, large quantities of seemingly useless objects that create a significantly cluttered living space and cause considerable distress or impairment in functioning. Provides that the Department on Aging's program of services for persons age 60 or older shall include the following services for eligible adults who have been removed from their residences for the purpose of cleanup or repairs: temporary housing; counseling; and caseworker services to try to ensure that the conditions necessitating the removal do not reoccur.

LRB096 09993 DRJ 20157 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning aging.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Elder Abuse and Neglect Act is amended by
5 changing Sections 2 and 3 as follows:

6 (320 ILCS 20/2) (from Ch. 23, par. 6602)

7 Sec. 2. Definitions. As used in this Act, unless the
8 context requires otherwise:

9 (a) "Abuse" means causing any physical, mental or sexual
10 injury to an eligible adult, including exploitation of such
11 adult's financial resources.

12 Nothing in this Act shall be construed to mean that an
13 eligible adult is a victim of abuse, neglect, or self-neglect
14 for the sole reason that he or she is being furnished with or
15 relies upon treatment by spiritual means through prayer alone,
16 in accordance with the tenets and practices of a recognized
17 church or religious denomination.

18 Nothing in this Act shall be construed to mean that an
19 eligible adult is a victim of abuse because of health care
20 services provided or not provided by licensed health care
21 professionals.

22 (a-5) "Abuser" means a person who abuses, neglects, or
23 financially exploits an eligible adult.

1 (a-7) "Caregiver" means a person who either as a result of
2 a family relationship, voluntarily, or in exchange for
3 compensation has assumed responsibility for all or a portion of
4 the care of an eligible adult who needs assistance with
5 activities of daily living.

6 (b) "Department" means the Department on Aging of the State
7 of Illinois.

8 (c) "Director" means the Director of the Department.

9 (d) "Domestic living situation" means a residence where the
10 eligible adult lives alone or with his or her family or a
11 caregiver, or others, or a board and care home or other
12 community-based unlicensed facility, but is not:

13 (1) A licensed facility as defined in Section 1-113 of
14 the Nursing Home Care Act;

15 (2) A "life care facility" as defined in the Life Care
16 Facilities Act;

17 (3) A home, institution, or other place operated by the
18 federal government or agency thereof or by the State of
19 Illinois;

20 (4) A hospital, sanitarium, or other institution, the
21 principal activity or business of which is the diagnosis,
22 care, and treatment of human illness through the
23 maintenance and operation of organized facilities
24 therefor, which is required to be licensed under the
25 Hospital Licensing Act;

26 (5) A "community living facility" as defined in the

1 Community Living Facilities Licensing Act;

2 (6) A "community residential alternative" as defined
3 in the Community Residential Alternatives Licensing Act;

4 (7) A "community-integrated living arrangement" as
5 defined in the Community-Integrated Living Arrangements
6 Licensure and Certification Act;

7 (8) An assisted living or shared housing establishment
8 as defined in the Assisted Living and Shared Housing Act;
9 or

10 (9) A supportive living facility as described in
11 Section 5-5.01a of the Illinois Public Aid Code.

12 (e) "Eligible adult" means a person 60 years of age or
13 older who resides in a domestic living situation and is, or is
14 alleged to be, abused, neglected, or financially exploited by
15 another individual or who neglects himself or herself.

16 (f) "Emergency" means a situation in which an eligible
17 adult is living in conditions presenting a risk of death or
18 physical, mental or sexual injury and the provider agency has
19 reason to believe the eligible adult is unable to consent to
20 services which would alleviate that risk.

21 (f-5) "Mandated reporter" means any of the following
22 persons while engaged in carrying out their professional
23 duties:

24 (1) a professional or professional's delegate while
25 engaged in: (i) social services, (ii) law enforcement,
26 (iii) education, (iv) the care of an eligible adult or

1 eligible adults, or (v) any of the occupations required to
2 be licensed under the Clinical Psychologist Licensing Act,
3 the Clinical Social Work and Social Work Practice Act, the
4 Illinois Dental Practice Act, the Dietetic and Nutrition
5 Services Practice Act, the Marriage and Family Therapy
6 Licensing Act, the Medical Practice Act of 1987, the
7 Naprapathic Practice Act, the Nurse Practice Act, the
8 Nursing Home Administrators Licensing and Disciplinary
9 Act, the Illinois Occupational Therapy Practice Act, the
10 Illinois Optometric Practice Act of 1987, the Pharmacy
11 Practice Act, the Illinois Physical Therapy Act, the
12 Physician Assistant Practice Act of 1987, the Podiatric
13 Medical Practice Act of 1987, the Respiratory Care Practice
14 Act, the Professional Counselor and Clinical Professional
15 Counselor Licensing Act, the Illinois Speech-Language
16 Pathology and Audiology Practice Act, the Veterinary
17 Medicine and Surgery Practice Act of 2004, and the Illinois
18 Public Accounting Act;

19 (2) an employee of a vocational rehabilitation
20 facility prescribed or supervised by the Department of
21 Human Services;

22 (3) an administrator, employee, or person providing
23 services in or through an unlicensed community based
24 facility;

25 (4) any religious practitioner who provides treatment
26 by prayer or spiritual means alone in accordance with the

1 tenets and practices of a recognized church or religious
2 denomination, except as to information received in any
3 confession or sacred communication enjoined by the
4 discipline of the religious denomination to be held
5 confidential;

6 (5) field personnel of the Department of Healthcare and
7 Family Services, Department of Public Health, and
8 Department of Human Services, and any county or municipal
9 health department;

10 (6) personnel of the Department of Human Services, the
11 Guardianship and Advocacy Commission, the State Fire
12 Marshal, local fire departments, the Department on Aging
13 and its subsidiary Area Agencies on Aging and provider
14 agencies, and the Office of State Long Term Care Ombudsman;

15 (7) any employee of the State of Illinois not otherwise
16 specified herein who is involved in providing services to
17 eligible adults, including professionals providing medical
18 or rehabilitation services and all other persons having
19 direct contact with eligible adults;

20 (8) a person who performs the duties of a coroner or
21 medical examiner; or

22 (9) a person who performs the duties of a paramedic or
23 an emergency medical technician.

24 (g) "Neglect" means another individual's failure to
25 provide an eligible adult with or willful withholding from an
26 eligible adult the necessities of life including, but not

1 limited to, food, clothing, shelter or health care. This
2 subsection does not create any new affirmative duty to provide
3 support to eligible adults. Nothing in this Act shall be
4 construed to mean that an eligible adult is a victim of neglect
5 because of health care services provided or not provided by
6 licensed health care professionals.

7 (h) "Provider agency" means any public or nonprofit agency
8 in a planning and service area appointed by the regional
9 administrative agency with prior approval by the Department on
10 Aging to receive and assess reports of alleged or suspected
11 abuse, neglect, or financial exploitation.

12 (i) "Regional administrative agency" means any public or
13 nonprofit agency in a planning and service area so designated
14 by the Department, provided that the designated Area Agency on
15 Aging shall be designated the regional administrative agency if
16 it so requests. The Department shall assume the functions of
17 the regional administrative agency for any planning and service
18 area where another agency is not so designated.

19 (i-5) "Self-neglect" means a condition that is the result
20 of an eligible adult's inability, due to physical or mental
21 impairments, or both, or a diminished capacity, to perform
22 essential self-care tasks that substantially threaten his or
23 her own health, including: providing essential food, clothing,
24 shelter, and health care; and obtaining goods and services
25 necessary to maintain physical health, mental health,
26 emotional well-being, and general safety. The term includes

1 compulsive hoarding, which is characterized by the acquisition
2 of, and unwillingness or inability to discard, large quantities
3 of seemingly useless objects that create a significantly
4 cluttered living space and cause considerable distress or
5 impairment in functioning (Frost and Hartl, 1996).

6 (j) "Substantiated case" means a reported case of alleged
7 or suspected abuse, neglect, financial exploitation, or
8 self-neglect in which a provider agency, after assessment,
9 determines that there is reason to believe abuse, neglect, or
10 financial exploitation has occurred.

11 (Source: P.A. 94-1064, eff. 1-1-07; 95-639, eff. 10-5-07;
12 95-689, eff. 10-29-07; 95-876, eff. 8-21-08.)

13 (320 ILCS 20/3) (from Ch. 23, par. 6603)

14 Sec. 3. Responsibilities.

15 (a) The Department shall establish, design and manage a
16 program of response and services for persons 60 years of age
17 and older who have been, or are alleged to be, victims of
18 abuse, neglect, financial exploitation, or self-neglect. The
19 Department shall contract with or fund or, contract with and
20 fund, regional administrative agencies, provider agencies, or
21 both, for the provision of those functions, and, contingent on
22 adequate funding, with attorneys or legal services provider
23 agencies for the provision of legal assistance pursuant to this
24 Act. The program shall include the following services for
25 eligible adults who have been removed from their residences for

1 the purpose of cleanup or repairs: temporary housing;
2 counseling; and caseworker services to try to ensure that the
3 conditions necessitating the removal do not reoccur.

4 (b) Each regional administrative agency shall designate
5 provider agencies within its planning and service area with
6 prior approval by the Department on Aging, monitor the use of
7 services, provide technical assistance to the provider
8 agencies and be involved in program development activities.

9 (c) Provider agencies shall assist, to the extent possible,
10 eligible adults who need agency services to allow them to
11 continue to function independently. Such assistance shall
12 include but not be limited to receiving reports of alleged or
13 suspected abuse, neglect, financial exploitation, or
14 self-neglect, conducting face-to-face assessments of such
15 reported cases, determination of substantiated cases, referral
16 of substantiated cases for necessary support services,
17 referral of criminal conduct to law enforcement in accordance
18 with Department guidelines, and provision of case work and
19 follow-up services on substantiated cases. In the case of a
20 report of alleged or suspected abuse or neglect that places an
21 eligible adult at risk of injury or death, a provider agency
22 shall respond to the report on an emergency basis in accordance
23 with guidelines established by the Department by
24 administrative rule and shall ensure that it is capable of
25 responding to such a report 24 hours per day, 7 days per week.
26 A provider agency may use an on-call system to respond to

1 reports of alleged or suspected abuse or neglect after hours
2 and on weekends.

3 (d) By January 1, 2008, the Department on Aging, in
4 cooperation with an Elder Self-Neglect Steering Committee,
5 shall by rule develop protocols, procedures, and policies for
6 (i) responding to reports of possible self-neglect, (ii)
7 protecting the autonomy, rights, privacy, and privileges of
8 adults during investigations of possible self-neglect and
9 consequential judicial proceedings regarding competency, (iii)
10 collecting and sharing relevant information and data among the
11 Department, provider agencies, regional administrative
12 agencies, and relevant seniors, (iv) developing working
13 agreements between provider agencies and law enforcement,
14 where practicable, and (v) developing procedures for
15 collecting data regarding incidents of self-neglect. The Elder
16 Self-Neglect Steering Committee shall be comprised of one
17 person selected by the Elder Abuse Advisory Committee of the
18 Department on Aging; 3 persons selected, on the request of the
19 Director of Aging, by State or regional organizations that
20 advocate for the rights of seniors, at least one of whom shall
21 be a legal assistance attorney who represents seniors in
22 competency proceedings; 2 persons selected, on the request of
23 the Director of Aging, by statewide organizations that
24 represent social workers and other persons who provide direct
25 intervention and care to housebound seniors who are likely to
26 neglect themselves; an expert on geropsychiatry, appointed by

1 the Secretary of Human Services; an expert on issues of
2 physical health associated with seniors, appointed by the
3 Director of Public Health; one representative of a law
4 enforcement agency; one representative of the Chicago
5 Department on Aging; and 3 other persons selected by the
6 Director of Aging, including an expert from an institution of
7 higher education who is familiar with the relevant areas of
8 data collection and study.

9 (Source: P.A. 94-1064, eff. 1-1-07; 95-76, eff. 6-1-08.)